

**State of Maine  
Board of Licensure in Medicine  
137 SHS 161 Capitol Street  
Augusta, Maine 04333-0137  
Minutes of July 9, 2013  
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**State of Maine  
Board of Licensure in Medicine  
137 SHS, 161 Capitol Street  
Augusta, Maine 04333-0137  
Minutes of July 9, 2013**

**Board Members Present**

Maroulla Gleaton, M.D, Chairman  
David D. Jones, M.D., Board Secretary  
David R. Andrews, M.D.  
Louisa Barnhart, M.D.  
Cheryl Clukey  
David H. Dumont, M.D  
Dana Dyer  
David Nyberg, Ph.D.

Dr. Hatfield's term expired June 30, 2013  
A replacement has not been appointed.

**Board Staff Present**

Randal C. Manning, Executive Director  
Mark C. Cooper, M.D., Medical Director  
Jean M. Greenwood, Administrative Assistant  
Dan Sprague, Assistant Executive Director  
Kathryn Levesque, Board Investigator  
Tim Terranova, Consumer Assistant

**Attorney General's Office Staff**

Dennis Smith, Assistant Attorney General  
Detective James Gioia

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The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions are taken on all matters discussed during executive session. Discussions are projected on a screen by PowerPoint projection.

**PUBLIC SESSIONS**

9:11 a.m. – 9:25 a.m.  
10:56 a.m. – 11:11 a.m.  
12:05 p.m. – 12:08 p.m.  
12:08 p.m. – 12:37 p.m.  
12:37 p.m. – 1:47 p.m.  
3:15 p.m. - 3:26 p.m.  
3:26 p.m. – 4:50 p.m.

**EXECUTIVE SESSIONS**

9:25 a.m. – 10:56 a.m.  
11:11 a.m. – 12:05 p.m.  
1:47 p.m. – 3:15 p.m.

**PURPOSE**

Call to Order and Election of Officers  
Recess  
Public Session  
Noon Meal  
Public Session  
Recess  
Public Session/Adjournment

Complaints  
Informal Conference  
Complaints

**I. Call to Order**

Dr. Gleaton called the meeting to order at 9:11 a.m.

**A. Amendments to Agenda**

1. Move CR 12-21 from Consent Agreement Monitoring to Complaints

B. Scheduled Agenda Items

11:00 a.m. CR 12-225 - Informal Conference (See Section IV)

C. Election of Officers

**32 §3266. ELECTIONS; MEETINGS; SEAL; EXPENSES**

*The members of the board shall meet on the 2nd Tuesday of July of the uneven-numbered years at the time and place the board may determine and shall elect a chair and a secretary who shall hold their respective offices for the term of 2 years. The secretary of the board shall perform such duties as delegated by the board, including license application review functions. The board through its executive director shall receive all fees, charges and assessments payable to the board and account for and pay over the same according to law. The board shall hold regular meetings, one in March, one in July and one in November of each year, and any additional meetings at other times and places as it may determine. The board shall cause a seal to be engraved and shall keep a record of all their proceedings.*

Dr. Nyberg nominated Dr. Gleaton for Chairman. Dr. Dumont seconded the nomination. The board voted unanimously to elect Dr. Gleaton as Chairman.

Dr. Dumont nominated Dr. Jones for Board Secretary. Dr. Andrews seconded the nomination. The board voted unanimously to elect Dr. Jones as Board Secretary.

Executive Session

II. New Complaints

1. Letters of Guidance

a. CR12-44 Deborah Learson, M.D.

Dr. Barnhart moved to approve the letter of guidance to Dr. Learson as amended. Dr. Dumont seconded the motion, which passed unanimously.

b. CR 12-59 Deborah Learson, M.D.

Dr. Barnhart moved to approve the letter of guidance to Dr. Learson as amended. Dr. Dumont seconded the motion, which passed unanimously.

2. CR13-72

Mr. Dyer moved to dismiss CR13-72. Dr. Jones seconded the motion, which passed unanimously.

The patient complains the doctor consulted other health care providers without her knowledge or agreement while evaluating her case. The doctor agrees he did contact a hospital that is familiar with her case. Review of the medical records demonstrates the proper standard of care was provided to this patient.

3. CR12-34

Dr. Barnhart moved to investigate further CR12-34. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Jones recused.

4. CR12-233

Dr. Dumont moved to investigate further CR12-233. Dr. Jones seconded the motion, which passed unanimously.

5. CR13-5

Dr. Barnhart moved to dismiss CR13-5. Dr. Dumont seconded the motion, which passed unanimously.

A member of the patient's family complains that the physician did not take seriously a complaint about the provision of certain kinds of medication. The physician's records and care of the patient were appropriate.

The physician describes changes in his practice to improve monitoring of such patients. This complaint is dismissed as improved monitoring is in place.

6. CR13-30 John E. Sommer, M.D.

Dr. Dumont moved to dismiss CR13-30 John E. Sommer, M.D. with a letter of guidance. Dr. Jones seconded the motion, which passed unanimously.

This is a complaint by a patient who states that her physician prescribed a medication that might be contraindicated because of her pre-existing medical condition. She also complains about poor communication with the physician and his office.

The physician replies he did not realize that there might have been a problem with the medication he prescribed and changed the medication as soon as he was made aware of the problem. He also admits that there is inadequate documentation in the chart of his medical decision making, patient discussion and interactions, and prescription choices.

The letter of guidance will reiterate the importance of adequate documentation of medical decision making, patient discussions, and prescription choices.

7. CR13-63

Dr. Andrews moved to dismiss CR13-63. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges that her physician has provided inattentive care of her chronic pain, and that he has performed expensive, inappropriate testing, which has not resulted in any diagnosis of or improvement in her condition. The physician responds that his care and diagnostic testing were appropriate, as was that of his associates, who also cared for the patient. Record review shows appropriate medical management, diagnostic testing, use of consultants, and medical record keeping. There is no evidence supporting the patient's allegations.

8. CR12-99

Dr. Barnhart moved to dismiss CR12-99. Dr. Nyberg seconded the motion, which passed unanimously.

This physician allegedly applied for medical insurance denying any pre-existing health problems, but knowing expensive medical testing was warranted in the situation. Review of the records does document the existence of the condition for some weeks before the testing, but the exact dates of the testing could not be confirmed. The insurance company required the physician to pay for the procedures. This case is dismissed for lack of confirmatory data.

9. CR12-100 Michael C. Lemieux, M.D

Dr. Barnhart moved to dismiss CR12-100 with a letter of guidance. Dr. Jones seconded the motion, which passed unanimously.

Dr. Lemieux prescribed medications to himself and to an acquaintance. No appropriate medical records were kept. This physician was evaluated carefully and these instances appear to have been isolated cases.

Dr. Lemieux is reminded that the AMA code of medical ethics proscribes these behaviors. Providing scheduled substances to oneself, even for appropriate indications, is never acceptable, and physicians are expected to maintain formal medical records for all patient encounters.

10. CR13-65

Dr. Jones moved to instruct the Assistant Attorney General to offer a Consent Agreement with terms specified in the Board's discussion. Dr. Dumont seconded the motion, which passed 7-1.

Dr. Jones moved to clarify the terms of the Consent Agreement. Dr. Dumont seconded the motion, which passed unanimously.

11. CR13-45

Dr. Gleaton moved to investigate further CR13-45. Dr. Jones seconded the motion, which passed unanimously.

12. CR13-46

Dr. Andrews moved to investigate further CR13-46. Dr. Jones seconded the motion, which passed unanimously.

13. CR13-48

Ms. Clukey moved to instruct the Assistant Attorney General to offer a Consent Agreement with terms specified in the Board's discussion. Dr. Dumont seconded the motion, which passed unanimously.

14. CR13-87

Dr. Andrews moved to dismiss CR13-87. Dr. Jones seconded the motion, which passed unanimously.

The Board complained that the residency staff physician did not acknowledge the presence of two separate pediatric prescribing errors made by his resident physician in addressing a previous patient complaint against the resident. The Board acknowledges that neither error would have been likely to result in patient harm. The physician was aware of both errors involving the same prescription, and the Board expected that both errors would be clearly discussed in his response. The physician's attorney asserts that there was no attempt to mislead the Board, and describes systems changes that reassure the Board that such prescribing errors are unlikely to occur in the future.

15. CR13-59

Dr. Nyberg moved to investigate further CR13-59. Dr. Jones seconded the motion, which passed unanimously.

16. CR13-60

Dr. Nyberg moved to investigate further CR13-60. Dr. Jones seconded the motion, which passed unanimously.

17. CR13-67

Dr. Nyberg moved to investigate further CR13-67. Dr. Jones seconded the motion, which passed unanimously.

18. CR13-66

Dr. Jones moved to instruct the Assistant Attorney General to offer a Consent Agreement with terms specified in the Board's discussion. Ms. Clukey seconded the motion, which passed 7-0-0-1 with Dr. Andrews recused.



19. CR13-33

Dr. Jones moved to hold an Informal Conference in the matter of CR13-33. Dr. Nyberg seconded the motion, which passed unanimously.

20. CR13-74

Dr. Gleaton moved to dismiss CR13-74. Dr. Barnhart seconded the motion, which passed unanimously.

A patient complained about an ophthalmologist's clinical competency with regard to her cataract surgery. Review of the records indicates medically and surgically appropriate care with a known but infrequent complication occurring. She had a second technically difficult procedure to implant a new lens better able to give the patient improved vision. Her care is being followed by another physician in the group and she is slowly improving. Optimally, the physician's chart documentation and informed consent procedure could have been more thorough.

21. CR12-73 Michael J. Festino, M.D.

Mr. Dyer moved to dismiss CR12-73 Michael J. Festino, M.D. with a letter of guidance. Dr. Andrews seconded the motion, which passed unanimously.

Concern regarding Dr. Festino's prescribing of controlled substances was the basis of this Board complaint. During the investigation of this complaint, the Board made several recommendations about his practice and educational recommendations with which he promptly complied.

The guidance is as follows: (1) Recognize the importance of utilizing universal precautions in prescribing of controlled substances to all patients, and (2) Continue to include chronic pain management and responsible prescribing of controlled substances in his continuing medical education.

22. CR13-27

Dr. Gleaton moved to dismiss CR13-27. Dr. Andrews seconded the motion, which passed 7-0-0-1 with Dr. Jones recused.

A patient's daughter complained about the competency of an otolaryngologist treating her mother for vertigo. The daughter was concerned about the choice of medication, given her mother's advanced age and co-morbidities. The documentation in the records reveals reasonable medical judgment with regard to treatment modalities, a thorough discussion of risks and benefits, as well as an invitation to call the office with concerns. There was a note that the patient would be following up with her ophthalmologist in several days concerning her new vertigo and allergy medication and their possible impact on her ongoing glaucoma treatment.

23. CR13-29

Dr. Dumont moved to investigate further CR13-29. Dr. Jones seconded the motion, which passed unanimously.

24. CR13-34

Dr. Jones moved to dismiss CR13-34. Dr. Andrews seconded the motion, which passed unanimously.

The patient's daughter complained that her mother's primary care provider did not do appropriate testing when her mother had two episodes of syncope a day apart and had two hospital admissions in April 2010. She states this physician missed the diagnosis of esophageal cancer in April 2010, which was the cause of her mother's death more than 2½ years later. The patient had appropriate testing for syncope at the time of her admissions and previously had an EGD and barium swallow ordered by a consultant. The daughter also complained that the physician did not follow up with her mother after her admissions but the record shows the daughter called this physician's office after her mother's discharge and cancelled her mother's follow up, transferring her mother's care to another state. The daughter also complained that a referral was made to DHHS by this and another physician for possible elder abuse. This was an appropriate referral based on complaints made by her mother about her daughter at the time of her admissions. This patient's care was appropriate and the complaint is dismissed.

25. CR13-35

Dr. Jones moved to dismiss CR13-35. Dr. Barnhart seconded the motion, which passed unanimously.

The patient's daughter complained that her mother's admitting physician at a referral hospital did not do appropriate testing when her mother had a second syncopal spell in two days in April 2011, and was transferred from a community hospital emergency room for admission. She states the physician missed the diagnosis of esophageal cancer, which caused her mother's death over 2 1/2 years later. Review of the record documents appropriate testing for syncope the previous day at the referring hospital and further appropriate testing after admission at the referral hospital. It is also noted that the patient had an EGD and barium swallow ordered by a consultant a few months previously. The physician did discuss the possibility of some type of malignancy in his notes due to chronic lab abnormalities not related to syncope but felt these could be addressed by the primary care provider in follow up. He referred the patient on discharge back to her primary care provider. The patient's daughter also complained that the physician, in association with her mother's primary care physician, made a referral to DHHS for possible elder abuse. The referral was appropriate based on complaints made by her mother about the daughter.

26. CR13-47

Ms. Clukey moved to investigate further CR13-47. Dr. Jones seconded the motion, which passed unanimously.

27. CR13-52

Mr. Dyer moved to dismiss CR13-52. Dr. Dumont seconded the motion, which passed unanimously.

The physician is accused of ceasing to prescribe medications to the patient, who is the daughter of the complainant. There is a history of lost medicines and requests for early refills with this patient. The patient's urine and blood screens documented the prescribed medications were not present. The physician refused to prescribe further medications until a proper plan of supervision was created.

28. CR13-62

Dr. Barnhart moved to investigate further CR13-62. Dr. Nyberg seconded the motion, which passed unanimously.

29. CR12-21

Dr. Andrews moved to investigate further CR12-21. Dr. Gleaton seconded the motion, which passed 7-0-0-1 with Dr. Jones recused.

30. Intentionally Left Blank

III. Assessment & Direction

31. AD12-196 CR13-129

Dr. Dumont moved to issue a complaint in the matter of AD12-196 CR13-129. Dr. Nyberg seconded the motion, which passed unanimously.

32. AD13-69 (CR13-130)

Dr. Jones moved to issue a complaint in the matter of AD13-69 (CR13-130). Dr. Dumont seconded the motion, which passed unanimously.

33. AD13-79

Dr. Jones moved to file AD13-79. Dr. Andrews seconded the motion, which passed unanimously.

34. Intentionally Left Blank

35. Intentionally Left Blank

36. Complaint Status Report (FYI)

37. Consumer Assistant Feedback (None)

IV. Informal Conference CR12-225

Dr. Andrews moved to investigate further CR12-225. In October, the Board will review four to five patient records from the practice. Prior to October, the licensee will enroll in a course for appropriate opioid prescribing. The practice will undergo an audit by an outside reviewer such as Maine Medical Association. Dr. Dumont seconded the motion, which passed 7-0-0-1 with Dr. Jones recused.

Public Session

V. Minutes of June 11, 2013

Dr. Dumont moved to approve the minutes of June 11, 2013. Dr. Jones seconded the motion, which passed unanimously.

A. Request from Naseem S. Salim, M.D. to amend List B of January 11, 2011 Minutes

Dr. Jones moved to amend page 13, List B (2) of the approved minutes of January 11, 2011 to insert the word "preliminarily" before "deny" in the motion regarding Naseem S. Salim, M.D. Ms. Clukey seconded the motion, which passed unanimously.

VI. Board Orders and Consent Agreement Monitoring and Approval

A. Board Orders

1. CR13-10 Marshall J. Hubsher, M.D. [See Appendix A Attached]

Dr. Nyberg moved to approve the Board Order in the matter of CR13-10 Marshall J. Hubsher, M.D. Dr. Jones seconded the motion, which passed unanimously.

2. CR11-511/12-24 Charles D. Clemetson, M.D. [See Appendix B Attached]

Dr. Jones moved to approve the Board Order in the matter of CR11-511/12-24 Charles D. Clemetson, M.D. The motion was seconded by Mr. Dyer. Dr. Nyberg offered an amendment to the Board Order, page 3, paragraph 5, line 5: delete the words "while largely complete." The amendment was accepted by both the mover and seconder and passed 7-0-0-1 with Dr. Barnhart recused.

B. Consent Agreement Monitoring and Approval

1. CR11-304 Venkatram Nethala, M.D.

Dr. Nethala requested to change his twice a month drug testing to once a month, changing to the hair test. His request included letters of support from those involved in his case.

Dr. Nyberg moved to approve Dr. Nethala's request to amend his Consent Agreement to to once per month drug testing using the hair test. Dr. Dumont seconded the motion, which passed unanimously.

2. CR12-162 Kevin M. Kendall, M.D.

Dr. Kendall requested clarification of the terms of his Consent Agreement with the Board; more specifically, he wanted to know if the current cap of 27 hours of work applied to both clinical and administrative work.

Dr. Gleaton moved to offer Dr. Kendall an amendment to the Consent Agreement clarifying that: he can work no more than a total of 40 hours per week; of the 40 hours, he may work no more than 27 clinical hours in shifts of no more than 12 hours in length; he cannot "take call"; and may not work from 9:00 p.m. to 7:00 a.m. Dr. Barnhart seconded the motion, which passed unanimously.

VII. Adjudicatory Hearing(s) (None)

VIII. Remarks of Chairman (None)

IX. Executive Director's Monthly Report

The Board accepted the Executive Director's Report.

A. Complaint Status Report (FYI)

B. Policy Review – Temporary License Issued for Six Months

Dr. Jones moved to reaffirm the policy "Temporary License Issued for Six Months." Dr. Andrews seconded the motion, which passed unanimously.

C. Executive Director's Longevity and Merit Increase.

Dr. Jones moved to allow the chairman of the Administrative Committee discuss by phone the Executive Director's longevity and merit pay with members to make a decision by mid August. Dr. Dumont seconded the motion, which passed unanimously with Dr. Nyberg having been excused.

X. Medical Director's Report (None)

XI. Remarks of Assistant Attorney General (None)

XII. Secretary's Report

A. List A M.D. Licenses for Ratification

1. Dr. Jones moved to ratify Dr. Gleaton's approval of the Physicians on M.D. List A for licensure. Ms. Clukey seconded the motion, which passed unanimously.

The following license applications have been approved by staff and Board Secretary Maroulla Gleaton, M.D. without reservation:

NAME	SPECIALTY	LOCATION
Alkhunaizi, Sufana	Internal Medicine	Bangor
Barton, Tonia	Pediatrics	Farmington
Baxter, Jeffrey	Family Medicine	Sanford
Bormann, John	Diagnostic Radiology	South Portland
Brewster, Joshua	Anesthesiology	Skowhegan
Bhugra, Mudita	Internal Medicine	Rockport
Dhungana, Rajat	Internal Medicine	Bangor
Doynow, Donald	Internal Medicine	NONE
Finocchio, Laura	Family Medicine	Norway
Glazer, John	Psychiatry	Portland
Govinda, Raghavendra	Anesthesiology	Bangor
Guevarra, Jose Ian	Anesthesiology	Bangor
Hagedorn, Brett	Diagnostic Radiology	South Portland
Hatem, Hatem	OB/GYN	Calais
Hart, Joseph	Surgery	Bangor
Hooge, John	Emergency Medicine	Bangor
Idenburg, Alexandra	Family Medicine	Pittsfield
Jazzar, Ahmad	Internal Medicine	Brunswick
Johnson, Shawn	Radiology	South Portland
Joson, Timothy	Internal Medicine	Bangor
Levin, Dmitry	Internal Medicine	Waterville
Liliav, Benjamin	Surgery	NONE
Junaidi, Babar	Internal Medicine	Lincoln
Lim, Miia	Family Practice	Telemedicine
Lowry, Bruce	Emergency Medicine	Portland
McClain, Linda	OB/GYN	Ellsworth
McKenzie, David	Emergency Medicine	Portland
Mojdehi, Rosa	OB/GYN	Portland
Moran, Mary	Internal Medicine	NONE
Nair, Anita	Internal Medicine	Waterville
Oppenheimer, Jonathan	Pathology	Telemedicine
Parker, Laurel	Emergency Medicine	Augusta
Powers, Kit Kevin	Internal Medicine	Bangor
Reddy, Sandeep	Internal Medicine	Sanford
Reyes, Iris	Emergency Medicine	Bar Harbor
Reznik, Oleg	Family Medicine	NONE
Roa Mendez, Juan	Internal Medicine	Lincoln
Rughani, Anand	Neurosurgery	Portland

Sandor, Frantisek	Internal Medicine	Bangor
Sherchan, Mamta	Internal Medicine	Bangor
Shrestha, Bishow	Internal Medicine	Bangor
Snowden, Cindi	Pathology	NONE
Thrall, Matthew	Radiology	NONE
Trevino II, Edward	Pathology	Portland
Uchendu, Uchendu	Pediatrics	Caribou
Vradhii, Diana	Rheumatology	Brunswick
Villafane-Garcia, Minerva	Psychiatry	Bangor
Walton, Kelsey	Pediatrics	Augusta
Withers, Laura	Surgery	Lewiston
Wrighton, Lindsay	Surgery	Lewiston

2. P.A. List A Licenses for Ratification

Dr. Jones moved to ratify Dr. Gleaton's approval of the Physician Assistants on P.A. List A for licensure. Dr. Dumont seconded the motion, which passed unanimously.

The following Physician Assistant license applications have been approved by the Board Secretary, Maroulla Gleaton, M.D. without reservation:

NAME	LICENSE	PSP	LOCATION
Stephen Buergin, P.A.-C	Active	Michael Ricci, M.D.	Lewiston
Taylor Butterfield, P.A.-C	Inactive	NONE	NONE
Heather McDaniel, P.A.-C	Active	Roger Renfrew, M.D.	Skowhegan
Shari Wadman, P.A.-C	Active	Michael Lambke, M.D.	Skowhegan

B. List B Applications for Individual Consideration

1. Mark K. Detweiler, M.D

The Licensure Committee moved to instruct the Assistant Attorney General to offer a Consent Agreement as specified in the Board's discussion. The motion passed unanimously.

C. List C Applications for Reinstatement

1. List C Applications for Reinstatement (None)

2. List C Applications for Reinstatement for Individual Consideration

a. Paul J. Davis, M.D.

The Licensure Committee moved to instruct the Assistant Attorney General to offer a Consent Agreement as specified in the Board's discussion. The motion passed unanimously.

## D. List D Withdrawals

1. List D (1) Withdraw License Application
2. List D (2) Withdraw License from Registration

Dr. Jones moved to approve the licensees on List D (2) to withdraw from registration. Dr. Barnhart seconded the motion, which passed unanimously.

The following physicians have applied to withdraw their licenses from registration.

<u>NAME</u>	<u>LICENSE NO.</u>
Chang, Poh Yong	MD12334
Haroon, Ebrahm	MD14687
Young, John	MD16248

3. List D (3) Withdraw License from Registration - Individual Consideration (None)

E. List E Licenses to lapse by operation of law (None)

F. List F Licensees requesting to convert to active status (None)

G. List G Renewal applications for review (None)

H. List H. Physician Assistant Schedule II Authority Requests for Ratification

1. Applications to Renew Schedule II Authority (None)
2. Applications for New Schedule II Authority

Dr. Jones moved to ratify the Board Secretary's approval of the following requests for Schedule II Authority. Dr. Barnhart seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by the Board Secretary Maroulla Gleaton, M.D.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
John Bastin, P.A.-C	Steven Diaz, M.D.	Waterville
Robert Cianfarano, P.A.-C	Amy Madden, M.D.	Belgrade
Vince LaBrecque, P.A.-C	Steven Diaz, M.D.	Waterville
Charity Lower, P.A.-C	Richard Marino, M.D.	Portland
Michael Luck, P.A.-C	Steven Diaz, M.D.	Waterville
Melissa Michaud, P.A.-C	Steven Diaz, M.D.	Waterville



Susan Motley, P.A.-C  
Matthew Picard, P.A.-C  
Susan Piotti, P.A.-C  
Diane Reynolds, P.A.-C  
Michele Smith, P.A.-C  
Michael Valentine, P.A.-C

Steven Diaz, M.D.  
Thomas Morrione, M.D.  
Gavin Ducker, M.D.  
Lawrence Smith, M.D.  
Richard Flaherty, M.D.  
Konrad Barth, M.D.

Waterville  
Portland  
Waterville  
Bangor  
South Portland  
Scarborough

XIII. Standing Committee Reports

A. Special Projects Committee -Medical Professionals Health Program (MPHP) Report

Dr. Lani Graham, Kathy Stratton, and Gordon Smith presented an updated draft of the MPHP protocols dated 2013.

Dr. Nyberg moved to renew the old contract dated 2011 with Medical Professionals Health Program for one year. Mr. Dyer seconded the motion, which passed unanimously.

B. Legislative and Regulatory Committee (FYI)

C Physician Assistant Advisory Committee (Draft Meeting Minutes - FYI)

XIV. Board Correspondence (None)

XV. FYI (None)

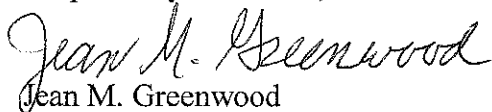
XVI. FSMB Material (None)

XVII. Other Business (None)

XVIII. Adjournment 4:50 p.m.

Dr. Jones moved to adjourn. Dr. Dumont seconded the motion, which passed unanimously.

Respectfully submitted,



Jean M. Greenwood  
Administrative Assistant  
Board Coordinator

STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

In Re: Marshall Hubsher, M.D.	)	
	)	<b>DECISION AND ORDER</b>
Denial of Application for Licensure	)	

**I. PROCEDURAL HISTORY**

Pursuant to the authority found in 32 M.R.S. § 3271, 32 M.R.S. § 3282-A, and 10 M.R.S. § 8003(5), the State of Maine Board of Licensure in Medicine ("Board") met in public session at its offices in Augusta, Maine, on June 11, 2013. The purpose of the meeting was to conduct an adjudicatory hearing to determine whether grounds existed to deny the application for licensure of Marshall Hubsher, M.D.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were David Andrews, M.D.; Louisa Barnhart, M.D.; Cheryl Clukey; David Dumont, M.D.; Dana Dyer; Maroulla Gleaton, M.D.; David Jones, M.D.; David Nyberg, Ph.D.; and Chair Gary Hatfield, M.D. Dr. Hubsher was not present. Dennis Smith, Esq., Assistant Attorney General, represented the State of Maine. Rebekah J. Smith, Esq., served as Presiding Officer. The hearing was held in accordance with the requirements of the Administrative Procedures Act, 5 M.R.S. § 9051 et seq.

State Exhibits #1 to #29 were admitted. The Board took notice of its statutes and rules and confirmed that no members had any conflict of interest or bias that would prevent them from rendering an impartial decision in this matter. The State presented an opening statement. The State presented Maureen Lathrop, Secretary for the Board; Tracy Morrison, Licensing Specialist for the Board; James Gioia, Detective with the Office of the Attorney General; and Timothy Terranova, Consumer Assistant for the Board, as witnesses. The State made a closing statement. The Board

then deliberated and made the following findings of fact and conclusions of law by a preponderance of the credible evidence regarding Dr. Hubsher's application for licensure.

## **II. FINDINGS OF FACTS**

### **Historical Facts**

1. The Applicant was granted a medical license in the State of New York in 1976. (State Exh. #7.)
2. In 1988, the New York Board for Medicine suspended the Applicant's medical license for a period of five years, stayed the last 42 months of the suspension, and placed the Applicant on probation for 42 months following the suspension. (State Exh. #11; State Exh. #5.) The disciplinary action was based on the Applicant's 1982 federal criminal conviction for possession of 2000 quaaludes, his 1983 conviction for issuance of a triplicate prescription with a false date, and his 1987 conviction for Medicaid fraud. (State Exh. #11.) The period of suspension ran from April 1988, until October 1989, followed by a period of probation from October 1989 through April 1993. (State Exh. #11.)
3. On April 15, 1994, the New York Board for Professional Medical Conduct charged the Applicant with practicing medicine while his license was suspended, failing to maintain records, and practicing the profession fraudulently. (State Exh. #12.) In January 1995, following a hearing, a Hearing Committee of the New York Department of Health revoked the Applicant's license to practice medicine. (State Exh. #12.) The Hearing Committee found the Applicant guilty of providing medical treatment to patients during the time that his license was suspended, failing to maintain records, and practicing the profession of medicine fraudulently. (State Exh. #12.) The Hearing Committee determined that during his suspension the Applicant had knowingly and intentionally misled his patients,

pharmacies, and insurance carriers; manipulated circumstances to intentionally conceal that he was practicing medicine while his license was suspended; and perjured himself. (State Exh. #12.) Following denial of a request for reconsideration, the Applicant's license was revoked by the New York Department of Health on May 16, 1995. (State Exh. #11; State Exh. #5.)

4. On May 17, 1996, the Applicant petitioned for the restoration of his New York medical license. (State Exh. #11.) In the application, the applicant disclosed his 1988 suspension and probation but referenced only the 1987 Medicaid fraud as a basis, not the other two convictions upon which the disciplinary action was also based. (State Exh. #11.) Following hearing, the Applicant's request for reinstatement was denied. (State Exh. #11.) The Peer Committee reviewing the request noted that no professional testimony had been provided regarding any changes in the Applicant character since the problems began in 1980. (State Exh. #11.) The Peer Committee noted that the Applicant committed three serious offenses directly related to his practice within a short time of being licensed and then schemed before, during, and after his suspension to try to minimize any disruption to his practice. (State Exh. #11.) The Peer Committee's recommendation to deny the Applicant's request for reinstatement, seconded by the Committee on the Professions, was affirmed by the Board of Regents of the University of the State of New York Education Department. (State Exh. #10.)
5. On April 18, 2006, the Applicant's New York medical license was reinstated. (State Exh. #5; State Exh. #9.) The Peer Committee of the New York Medical Board and the Committee on the Professions concluded that there was almost no chance that the Applicant would ever again commit misconduct of the sort that led to his loss of licensure; that the

Applicant had undergone sufficient therapy to achieve insight into his behavior; that the Applicant had undergone a spiritual awakening; and that the Applicant was sincerely remorseful. (State Exh. #9.)

6. On April 18, 2012, the Applicant was arrested on charges of rape in the third degree and criminal sexual act in the third degree. (State Exh. #17; Testimony of Gioia.) On April 19, 2012, the Applicant was arraigned on the two charges in Nassau County, New York, based on allegations that on April 3, 2012, the Applicant engaged in sexual intercourse with a female patient during a treatment session. (State Exh. #17; State Exh. #24.) The Applicant's arrest was covered by the news media. (State Exh. #24; State Exh. #26 (including video that is linked in article)).
7. A May 11, 2012, Statement of Charges filed by the New York Board for Professional Medical Conduct alleged that the Applicant had committed professional misconduct by a wide-ranging set of actions beginning in 2008 that included fraudulent practice, false report, failure to maintain records, moral unfitness, negligence, incompetence, gross negligence, willful patient harassment, abuse or intimidation, and exercising undue influence on a patient. (State Exh. #8.)
8. By Order dated June 28, 2012, the Applicant was placed on probation pending the effective date of his surrender of his medical license on July 31, 2012. (State Exh. #5.) By letter dated June 28, 2012, the New York State Department of Health provided the Applicant with a copy of the New York State Board for Professional Medical Conduct Order No. 12-131, indicating that the order and penalty provided there in went into effect June 28, 2012. (State Exh. #8.) By Surrender Order dated June 28, 2012, the State Board for Professional Medical Conduct ordered that the Applicant would surrender his medical license effective

July 31, 2012. (State Exh. #8.) The Applicant had entered into the Surrender and Consent Agreement and Order on the basis that he could not successfully defend against at least one of the allegations, in full satisfaction of the charges against him. (State Exh. #8.) Pursuant to the Surrender and Consent Agreement and Order, the Applicant was placed on probation as of June 26, 2012, pending the surrender of his license on July 31, 2012. (State Exh. #8.)

**Procedural Facts**

9. On July 18, 2012, the Applicant submitted a Uniform Application for Physician Licensure to the Board. (State Exh. #4.) The application included an affidavit in which the Applicant certified under oath that all the statements made within the application were true, that he had answered all questions in the application truthfully and completely, and that he acknowledged that failure on his part to answer questions truthfully and completely could lead to prosecution under federal or state law. (State Exh. #4.)
10. In the application, the Applicant was asked if he had ever had any licensing authority deny his application for any type of license, or take any disciplinary action against the license issued to him in that jurisdiction, including but not limited to a warning, fine, suspension, revocation, restrictions on permitted practice, or probation with or without monitoring. (State Exh. #4.) In response, the Applicant referenced his 1988 suspension, indicating that because he had accepted \$35 from a Medicaid patient for making house calls each week for three years, while also accepting \$30 from Medicaid each week, he had had to plead guilty to Medicaid fraud, resulting in a license suspension for 18 months and a suspension from Medicaid program participation for two years. (State Exh. #4.) The Applicant also indicated that, six years later, his license had been revoked as a result of allegations of

practicing medicine with his brother who was also a psychiatrist because officials believed he was telling his brother what prescriptions to prescribe to patients. (State Exh. #4.)

11. In the application for Maine licensure, the Applicant indicated that he had not been notified of the existence of allegations filed by any licensing authority that remained open as of the date of the application. (State Exh. #4.) Also in the application, when asked if he had ever been charged, summons, indicted, arrested, or convicted of any criminal offense, the Applicant indicated yes but his written explanation referenced only his prior admission of the 1987 guilty plea to Medicaid fraud. (State Exh. #4.)
12. In the application, the Applicant did not indicate that the 1988 suspension of his New York license was based on two convictions in addition to that for Medicaid fraud. (State Exh. #4.) The Applicant also failed to explain that the 1998 suspension was followed by 42 months of probation. (State Exh. #4.) The Applicant did not disclose the denial of his 1990 petition for licensure in Connecticut. (State Exh. #4.) The Applicant did not indicate that his petition for reinstatement of his New York license following his 1995 revocation was denied in 1996. (State Exh. #4.) Finally, the Applicant did not disclose that he was arrested and charged with two crimes in April 2012 or that in June 2012 he had entered into a Surrender and Consent Agreement and Order placing him on probation as of June 28, 2012, pending the surrender of his New York license on July 31, 2012. (State Exh. #4.)
13. On November 13, 2012, the Board voted to preliminarily deny the Applicant's request for permanent Maine licensure. (State Exh. #22.)
14. On November 16, 2012, the Applicant submitted a request to the Board that it reconsider its initial decision to deny his medical license. (State Exh. #3.) The Applicant apologized for failing to mention his July 2012 surrender of his New York license because during the

month of July, he was stressed by seeing all his disappointed patients and transitioning them to new care providers, he was depressed and anxious, his wife was suffering from a severe illness, and his father-in-law required assistance obtaining medical care for Alzheimer's disease, and thus he had too little time to read the application questions carefully. (State Exh. #3.)

15. On December 21, 2012, the Board issued notice to the Applicant that on November 13, 2012, it had voted to preliminarily deny his application for permanent licensure. (State Exh. #22.)
16. By notice of hearing dated March 29, 2013, the Applicant received notice of the May 14, 2013, hearing date. (State Exh. #1; State Exh. #1A.)
17. On May 9, 2013, the Applicant requested a continuance of the hearing scheduled for May 14, 2013, on the basis of family problems. (Conference Order of May 14, 2013.) A conference call was held and the continuance request was denied by the Hearing Officer. (Conference Order of May 14, 2013.)
18. By letter dated May 10, 2013, the Applicant asked the Board to grant his application for licensure. (State Exh. #27.)
19. By a second amended notice of hearing dated May 7, 2013, the Applicant was notified that the events of 2012 would be included in the allegations that would be the subject of hearing on May 14, 2013. (State Exh. #1B.) On May 13, 2013, after the close of business, the Applicant presented a new continuance request on the basis that he had received the amended notice of hearing earlier that day and that he did not have time to respond to the new allegations. (Conference Order of May 14, 2013.) On May 14, 2013, a conference call was convened. (Conference Order of May 14, 2013.) Pursuant to the notice requirements



of the Administrative Procedures Act, at 5 M.R.S. § 9052, the Applicant's continuance request was granted. (Conference Order of May 14, 2013.) During that conference call, the Applicant was informed that the hearing would very likely be held on June 11, 2013. (Conference Order of May 14, 2013.)<sup>1</sup>

20. The Applicant was sent a second amended notice of hearing on May 15, 2013, rescheduling the hearing for June 11, 2013. (State Exh. #1C.) The notice was sent via first class and certified mail. (State Exh. #1C.) Although the certified letter was returned to the Board unclaimed, the letter sent via first class was not returned as undeliverable. (Testimony of Lathrop.)
21. By letter received by the Board on May 30, 2013, the Applicant sought to withdraw his application for licensure. (State Exh. #28.) On June 3, 2013, the Assistant Attorney General filed an objection to the Applicant's request to withdraw. (State Exh. #29.) On June 10, 2013, the Applicant left three voicemail messages for Maureen Lathrop, Secretary for the Board. (Testimony of Lathrop.) In his messages, the Applicant indicated that he would not attend the hearing on June 11 because of his wife's medical issues. (Testimony of Lathrop.) In the messages, the Applicant did not request a continuance of the hearing, but asked that the Board review his request to withdraw his application for licensure prior to holding the hearing. (Testimony of Lathrop.)
22. On June 11, 2013, just prior to the start of hearing, the Board voted unanimously not to accept the Applicant's request to withdraw his application for licensure.

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<sup>1</sup> The Board Secretary testified that she did not have a record that the Conference Order of May 14, 2013, was provided to the Applicant. (Testimony of Lathrop.)

### **III. GOVERNING STATUTES AND RULES**

1. The Board may not grant an application for licensure unless the Board finds that the applicant is qualified and no cause exists, as set forth in 32 M.R.S. § 3282-A, that could be considered grounds for disciplinary action against a licensed physician or surgeon. 32 M.R.S. § 3271(5). When an individual applies for a license, the Board may investigate the professional record of that individual, including professional records that the individual may have as a licensee in other states. 32 M.R.S. § 3282-A(1).
2. The Board may refuse to issue a license or impose discipline on a licensee if the Board finds that the applicant or licensee engaged in the practice of fraud or deceit in obtaining a license or in connection with service rendered within the scope of the license. 32 M.R.S. § 3282-A(2)(A).
3. The Board may refuse to issue a license or impose discipline on a licensee if the Board finds that the applicant or licensee displayed incompetence in the practice of medicine. 32 M.R.S. § 3282-A(2)(E). A licensee is considered incompetent in the practice if the licensee has engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public or engaged in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed. 32 M.R.S. § 3282-A(2)(E).
4. The Board may refuse to issue a license or impose discipline on a licensee if the Board finds that the applicant or licensee committed unprofessional conduct. 32 M.R.S. § 3282-A(2)(F). A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior, including engaging in disruptive behavior, that

has been established in the practice for which the licensee is licensed. 32 M.R.S. § 3282-A(2)(F).

5. Subject to the limitations of Title 5, chapter 341, of the Maine Revised Statutes, the Board may refuse to issue a license or impose discipline on a licensee if the Board finds that the applicant or licensee was convicted of a crime that involved dishonesty or false statement or related directly to the practice for which the licensee was licensed, or conviction of a crime for which incarceration for one year or more could have been imposed. 32 M.R.S. § 3282-A(2)(G).
6. The Board may refuse to issue a license or impose discipline on a licensee if the Board finds that the applicant or licensee was subject to revocation, suspension, or restriction of a license to practice medicine or other disciplinary action; denial of an application for a license; or surrender of a license to practice medicine following the institution of disciplinary action by another state or territory of the United State or a foreign country if the conduct resulting in the disciplinary or other action involving the license would, if committed in Maine, constitute grounds for discipline under the laws or rules of the state. 32 M.R.S. § 3282-A(2)(M).

#### **IV. CONCLUSIONS OF LAW**

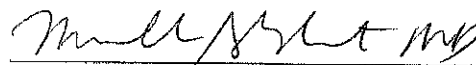
The Board, considering the above facts and those alluded to in the record but not referred to herein, determined as follows:

1. By a vote of 9-0, that Dr. Marshall Hubsher had committed the practice of fraud or deceit in attempting to obtain a license and in connection with service rendered within the scope of a license from another state. 32 M.R.S. § 3282-A(2)(A).

2. By a vote of 9-0, that Dr. Marshall Hubsher had committed incompetence in the practice of medicine by engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed to a patient or the general public. 32 M.R.S. § 3282-A(2)(E).
3. By a vote of 9-0, that Dr. Marshall Hubsher engaged in unprofessional conduct. 32 M.R.S. § 3282-A(2)(F).
4. By a vote of 9-0, that Dr. Marshall Hubsher was convicted of a crime that involved dishonesty or false statement and related directly to the practice for which he was licensed. 32 M.R.S. § 3282-A(2)(G).
5. By a vote of 9-0, that Dr. Marshall Hubsher had his license to practice medicine revoked, suspended, or restricted and surrendered his license to practice medicine following the institution of disciplinary action by another state due to conduct that would have constituted grounds for discipline in the State of Maine. 32 M.R.S. § 3282-A(2)(M).
6. By a vote of 9-0, because grounds existed that could be grounds for disciplinary action against him were he licensed in Maine, denied the application of Dr. Marshall Hubsher to become licensed to practice medicine in the State of Maine. 32 M.R.S. § 3271(5).

So Ordered.

Dated: July 11, 2013



Maroulla Gleaton, M.D.

Chair, State of Maine Board of Licensure in Medicine

## **V. APPEAL RIGHTS**

Pursuant to the provisions of 10 M.R.S. § 8003(5) and 5 M.R.S. § 11002(3), any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also

contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by certified mail, return receipt requested, upon the State of Maine Board of Licensure in Medicine, all parties to the agency proceedings, and the Attorney General.



made a closing statement. The Board then deliberated and made the following findings of fact and conclusions of law by a preponderance of the credible evidence regarding the allegations against Dr. Clemetson.

## **II. FINDINGS OF FACTS**

1. The Licensee was first licensed by the Board in 1994. (State Exh. #8.) In 2001, his practice underwent a targeted assessment pursuant to a Decision and Order of the Board dated June 12, 2001. (State Exh. #6; State Exh. #21.) One of the findings of the assessment was that the Licensee's medical notes were handwritten and frequently illegible. (State Exh. #21.) The resulting recommendation was that the Licensee should make sure that his documentation could be read and if possible he should dictate notes. (State Exh. #21.) The Licensee's practice was monitored until 2007. (State Exh. #3; Testimony of Licensee.)
2. By notice of hearing dated April 26, 2013, the Licensee was notified that a hearing on complaints CR 11-511 and CR 12-24 would be held on June 11, 2013. (State Exh. #1.) The allegations against the Licensee detailed in the notice of hearing were that he engaged in unprofessional conduct in violation of 32 M.R.S. § 3282-A(2)(F) by failing to create and maintain adequate medical records that met the standard of care for medical record keeping with regard to seven psychiatric patients under his care. (State Exh. #1.)
3. Dr. William Matuzas, a physician specializing in psychiatry, testified as an expert for the State. (Testimony of Matuzas.) Dr. Matuzas had worked at Maine General Medical Center since June 1999 providing assessment and treatment of in-patients and out-patients, consulting on medical and surgical services, serving as acting medical director, and serving on various committees. (Testimony of Matuzas.)

4. In January 2013, at the request of the Board, Dr. Matuzas reviewed seven of the Licensee's patient medical records from 2008 forward. (Testimony of Matuzas; State Exh. #10-#17.)  
  
Dr. Matuzas also reviewed the Licensee's typed summaries of those records, which the Licensee generated on March 29, 2012. (Testimony of Matuzas; State Exh. #19.)
5. On February 20, 2013, Dr. Matuzas issued a report summarizing his review. (State Exh. #2.) Dr. Matuzas found that the Licensee's clinical management of his patients was appropriate within the very broad standards of care within contemporary psychiatric practice. (State Exh. #2.) Dr. Matuzas also found, however, that the Licensee's documentation was generally illegible, fragmentary, and disorganized. (State Exh. #2.) Dr. Matuzas found that the patient records provided only minimal insight into the Licensee's diagnoses and medical decision-making, while any insight was burdened by substantial ambiguity. (State Exh. #2.) Dr. Matuzas observed that included in the Licensee's records were words, phrases, drawings of various kinds, which were often illegible and were not organized in any kind of coherent, narrative manner. (Testimony of Matuzas.) Dr. Matuzas noted that he would not have been able to discern the course of treatment and the clinical reasoning behind the treatment in the records without the Licensee's retrospective typed summaries. (State Exh. #2; Testimony of Matuzas.)
6. With regard to the record of patient E.G. at Exhibit #11, for example, Dr. Matuzas was not able to discern the Licensee's assessment, diagnosis, differential diagnosis, or reasoning behind prescription changes. (State Exh. #11; Testimony of Matuzas.) Dr. Matuzas found the Licensee's handwritten records within the record of patient E.G. to be illegible and fragmented. (Testimony of Matuzas.) With regard to the record of patient B.H. at Exhibit #12, Dr. Matuzas found the record to be incomplete without a notation of the Licensee's



impression, diagnosis, general clinical status, or plan of treatment. (State Exhibit #12; Testimony of Matuzas.) Dr. Matuzas observed that all seven of the Licensee's patient records that he reviewed contained similar problems. (Testimony of Matuzas.) Dr. Matuzas noted that fragmentary, incomplete records such as those at Exhibits #11 through #18 put patients at risk because colleagues trying to fill in for the Licensee would be at a loss to understand the assessment and reasoning that had gone into the care and would be unable to maintain continuity of care in an efficient manner. (Testimony of Matuzas.) Dr. Matuzas also observed that incomplete and illegible records put the Licensee at risk of not being able to show that he had provided adequate care. (Testimony of Matuzas.)

7. With regard to the record keeping in the seven medical records reviewed by Dr. Matuzas, he concluded that the records did not meet the standard of care for medical record keeping. (State Exh. #2.) At hearing, the Licensee agreed that his medical records, without the retrospective typed summaries, did not meet the standards of care for record keeping. (Testimony of Licensee.) Dr. Matuzas opined that even with the retrospective summaries typed by the Licensee, which were not part of the records but helped him understand the records, the records fell short of meeting standards of care. (Testimony of Matuzas.) Dr. Matuzas observed that the standard in medical record keeping was that the records be contemporary, legible, complete, and organized, and provide a means of evaluating the practitioner's evaluation of patients and their clinical reasoning and treatment planning. (State Exh. #2; Testimony of Matuzas.)
8. Dr. Matuzas agreed that the appropriate standard of care could be summarized consistent with the Primer on Medical Records developed by the American Psychiatric Association listing the major contents of a medical file and stating that the "primary underlying

philosophy of documentation is that good documentation supports quality patient care and is the primary means of demonstrating that [a psychiatrist] practiced responsible medicine during the course of treatment.” (State Exh. #20; Testimony of Matuzas.)

9. Dr. Matuzas concluded that the Licensee’s maintenance of his medical records amounted to questionable professional conduct. (State Exh. #2.) Dr. Matuzas concluded that the deficiencies in the Licensee’s record keeping were not uncommon among psychiatrists and that he was not sure if they amounted to professional misconduct, choosing to defer to the Board on the ultimate question of whether the Licensee committed unprofessional conduct. (State Exh. #2; Testimony of Matuzas.)
10. The Licensee last took a course in risk management during medical school. (Testimony of Licensee.) He has never taken a course in medical record keeping. (Testimony of Licensee.)
11. At hearing, the Licensee testified that he had begun to implement a plan to improve his record keeping including a voice-text software program and an internet based records management program. (Testimony of Licensee.)

### **III. GOVERNING STATUTES AND RULES**

1. For each violation of applicable laws, rules or conditions of licensure, the Board may issue warnings, censures or reprimand; suspend a license for up to 90 days for each violation of applicable laws, rules, and conditions of licensure; revoke a license; impose a civil penalty of up to \$1500 for each violation of applicable laws, rules and conditions of licensure; or impose conditions of probation upon a licensee. 10 M.R.S. § 8003(5)(A-1).
2. In particular, the Board may impose discipline upon a licensee if the Board finds that the licensee committed unprofessional conduct. 32 M.R.S. § 3282-A(2)(F). A licensee is

considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior, including engaging in disruptive behavior, that has been established in the practice for which the licensee is licensed. 32 M.R.S. § 3282-A(2)(F).

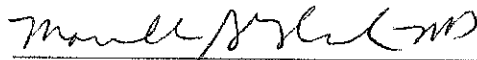
#### **IV. CONCLUSIONS OF LAW**

The Board, considering the above facts and those alluded to in the record but not referred to herein, determined that it had jurisdiction over Dr. Charles Clemetson and held as follows:

1. By a vote of 8-0, that Dr. Charles Clemetson had engaged in unprofessional conduct by violating a standard of professional behavior in violation of 32 M.R.S. § 3282-A(2)(F).
2. By a vote of 8-0, that Dr. Charles Clemetson shall undergo five years of probation during which time he will be monitored by a practice monitor approved by the Board who will review all aspects of the Licensee's practice including record keeping, time management, and appropriate psychiatric care. In addition, as a term of probation, Dr. Clemetson must complete a course in medical record keeping. Within one month of this Decision and Order, Dr. Clemetson must identify for the Board's approval the individual who will be the practice monitor and the record keeping course he will undertake. Within three months of this Decision and Order, Dr. Clemetson must have completed the record keeping course and the practice monitor must provide his or her first report.

So Ordered.

Dated: July 11, 2013



Maroulla Gleaton, M.D.

Chair, State of Maine Board of Licensure in Medicine

#### **V. APPEAL RIGHTS**

Pursuant to the provisions of 10 M.R.S. § 8003(5) and 5 M.R.S. § 11002(3), any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30

days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by certified mail, return receipt requested, upon the State of Maine Board of Licensure in Medicine, all parties to the agency proceedings, and the Attorney General.